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|-------------------------------|-----------------|----------------------|--|
| <b>Notice of Allowability</b> | Application No. | Applicant(s)         |  |
|                               | 10/665,329      | TEPE, THOMAS RICHARD |  |
|                               | Examiner        | Art Unit             |  |
|                               | Vickey Ronesi   | 1714                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--  
 All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment after final filed 6/23/06.
2. ☒ The allowed claim(s) is/are 1-3, 5, 7, 8 and 18.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br/>Paper No./Mail Date _____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____</li> <li>7. <input type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____</li> </ol> |
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*Statement of Reasons for Allowance*

1. The present claims are allowable over the closest prior art, Fealy (US 5,656,257), Dupre (US 4,351,754), and Laryea et al ("Stabilized Shampoo/Surfactant Suspensions") for the following reasons:

The present claims are drawn to an aqueous composition comprising 18-60 wt % of at least one surfactant; 0.1-10 wt % of at least one copolymer comprising 5-25 wt % acrylic acid, 40-75 wt % ethyl acrylate, 2-25 wt % lipophilically modified (meth)acrylate, and methacrylic acid wherein the total amount of acrylic and methacrylic acid is from 20-40 wt %; and 0.08-0.9 wt % clay. In the declarations filed 4/22/2005, 10/7/2005, and 3/16/2006 and in the specification as originally filed, applicant provided data which is reasonably commensurate in scope with the claimed invention and serves to establish that unexpected results regarding viscosity changes at high and low shear rates and resin bead suspension are had by using a copolymer containing 5-25 wt % acrylic acid, 40-75 wt % ethyl acrylate, 2-25 wt % lipophilically modified (meth)acrylate, and methacrylic acid wherein the total amount of acrylic and methacrylic acid is from 20-40 wt % with clay and surfactant.

Fealy discloses a shampoo conditioning composition comprising surfactant and an acrylate polymer containing acrylic or methacrylic acid, C1-C4 alkyl(meth)acrylate, and a lipophilically-modified (meth)acrylate, however, there is no teaching or suggestion that an acrylate copolymer containing both acrylic and methacrylic acid as well as ethyl acrylate provides for improved viscosity change at high and low shear rates and improved resin bead suspension properties when used in a composition containing clay.

Dupre (cited on IDS filed 12/29/2003) discloses a thickening agent for aqueous compositions comprising a (meth)acrylic acid emulsion copolymer and clay, wherein the (meth)acrylic acid emulsion copolymer contains methacrylic or acrylic acid, ethyl acrylate, and a alkoxyated (meth)acrylic acid ester, however, there is no teaching or suggestion that a copolymer containing both acrylic and methacrylic acid provides for improved resin bead dispersion. Furthermore, Dupre explicitly teaches that surfactant is used in an amount of 0.1-1.0 wt % (col. 7, lines 10), which is significantly far from the presently claimed amount of 18-60 wt %.

Laryea et al discloses a shampoo composition comprising clay, surfactant, and hydrophobic terpolymers such as Aculyn 22® and Acrulyn 28®, wherein Aculyn 22® is derived from oxyalkylenated stearyl methacrylate, ethyl acrylate, and methacrylic acid and Aculyn 28® is derived from oxyalkylenated beheneth, acrylic acid, methacrylic acid, and a alkyl acrylate not ethyl acrylate. While Aculyn 22® and Aculyn 28® are similar to the presently claimed copolymer, Laryea et al fails to disclose or suggest a copolymer of acrylic acid, methacrylic acid, ethyl acrylate, and lipophilically modified (meth)acrylate, wherein this copolymer provides for improved viscosity changes sat high and low shear rates and improved resin bead dispersion.

Thus, it is clear that Fealy, Dupre, and Laryea et al do not disclose or suggest the claimed invention.

In light of the above, it is clear that rejections of record are untenable and thus the present claims are passed to issue.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

Art Unit: 1714

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

*Conclusion*

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vickey Ronesi whose telephone number is (571) 272-2701. The examiner can normally be reached on Monday - Friday, 8:30 a.m. - 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

7/10/2006  
Vickey Ronesi



*Vasu Jagannathan*  
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